



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

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In re the Application of: **Hiroyuki SEKITANI**

Group Art Unit: **3625**

Serial Number: **09/880,036**

Examiner: **Mark A. Fadok**

Filed: **June 14, 2001**

Confirmation Number: **5953**

For: **PART RETRIEVING SYSTEM FOR PRODUCTION MACHINES
UTILIZING NETWORK**

Attorney Docket Number: **010734**

Customer Number: **38834**

SUBMISSION OF APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

03 March 2006

Sir:

Appellant submit herewith an Appeal Brief in the above-identified U.S. patent application.

Attached please find a check in the amount of \$500.00 to cover the cost for the Appeal Brief.

If any additional fees are due in connection with this submission, please charge our Deposit Account No. 50-2866.

Respectfully submitted,

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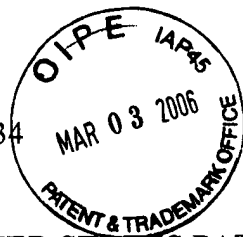
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Appeal Brief
Attorney Docket No. 010734
Serial No. 09/880,036



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

APPEAL BRIEF FOR THE APPELLANT

Ex parte Hiroyuki SEKITANI et al. (Appellant)

**PART RETRIEVING SYSTEM FOR PRODUCTION MACHINES UTILIZING
NETWORK**

Serial Number: **09/880,036**

Filed: **June 14, 2001**

Appeal No.:

Group Art Unit: **3625**

Examiner: **Mark A. Fadok**

Submitted by:
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Date: **March 3, 2006**

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BRIEF ON APPEAL

(I) REAL PARTY IN INTEREST

The real party in interest is MURATA KIKAI KABUSHIKI KAISHA, by an assignment recorded in the U. S. Patent and Trademark Office on **June 14, 2001** at Reel **011908**, Frame **0337**.

(II) RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to appellant, appellant's legal representative, or assignee that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(III) STATUS OF CLAIMS

Claims 1-3 are pending and are appealed.

(IV) STATUS OF AMENDMENTS

No amendments have been filed subsequent to the close of prosecution.

(V) SUMMARY OF THE INVENTION

Claim 1 is directed to a part retrieving system for production machines utilizing a network 3 comprising a part database 1 and a terminal 4 connected to the part database 1 a via a communication network 3 for bidirectional communications with the part database 1. The part database 1 has information 6 on parts accumulated therein, the parts constituting each of production machines having different specifications. The terminal 4 comprises part information requesting means 13 for requesting the part database 1 to transmit the part information 6, storage means 14 for storing the part information 6 transmitted in response to the transmission request, retrieval means 15 for retrieving parts 6 from the stored part information depending on retrieval conditions, and ordering means 16 for creating order information depending on the result of the retrieval by the retrieval means 15.

Claim 2 further requires that the part information requesting means 13 transmits information including identification information on the individual production machines. Furthermore, in response to the transmission request, the database 1 extracts information on parts concerning a production machine specified by the identification information and transmits the information as machine-specific part information 6 comprising a group of pieces of part information on a specific production machine.

Claim 3 further requires that the transmission requesting means 13 of the terminal 4 causes display means 17 provided in the terminal 4 to display a plurality of pieces of

identification information 45b on the production machines as a machine selection menu 41 so that a production machine can be selected from the displayed selection menu.

(VI) ISSUE TO BE REVIEWED ON APPEAL

Whether claims 1-3 are anticipated under 35 U.S.C. §102(b) by Calloway et al.

(VII) ARGUMENT

In the Office Action dated July 29, 2005 and in the Office Action dated September 15, 2005, the Examiner argues that Calloway discloses a part retrieving system for production machines utilizing a network as claimed. Calloway discloses an electronic maintenance support work station, which serves to replace the use of a paper catalog containing product parts information. See column 1, lines 32-42. In the work station of Calloway, part information is recorded on laser disk 15, and subsequently displayed on a graphics screen 14. This information is hierarchically ordered as shown in Figs. 3A and 3B. Once the part required is identified, an order may be placed and transmitted to a central computer 26. See column 4, lines 13-24. Calloway also discloses a local database in Figure 1B, which appears to correspond to the parts files 37 of Figure 1A.

It is the position of the Examiner that Calloway discloses a database in the central computer 26. Appellant respectfully argues that the Office Action has misread Calloway, and that Calloway actually discloses a local database.

Claim 1 recites “a terminal connected to the part database via a communications network for bidirectional communications with the part database.” Therefore, according to claim 1 the part database is not located in the local terminal. Thus, if the database of Calloway is located locally, rather than in the central computer, Calloway cannot anticipate the claims.

The Office Action dated September 15, 2005 states that “the workstation computer 24 is in bi-directional communication with central computer 26, which is depicted in FIG 1A and contains the database part files.” The Advisory Action dated November 28, 2005 specifically states that “[t]he functions depicted in FIG 1A are part of the central computer (col. 3, lines 61 and 62) and include a database file of parts (appendix).” Thus the Examiner argues that the database is located in the central computer.

The passage which the Examiner refers to states that “[t]he computer 24 accordingly interfaces with ...a central computer 26 (FIG. 1A) for communications, order entry, and the order entry functions described below...” Based upon this passage, the Examiner argues that Figure 1A illustrates the central computer 26. Appellant concedes that Figure 1A contains a database in the form of parts files 37, but respectfully argues that Figure 1A illustrates the EMS workstation 10, not the central computer 26. It is noted, however, that Calloway is somewhat unclear as to the distinctions between EMS workstation and work station computer 24. However, work station computer 24 is a component of EMS work station 10, since “[t]he EMS work station 10 is operated and controlled by the computer 24.” See column 4, lines 36-37.

For the reasons discussed below, Appellant respectfully argues that the Examiner's position is reliant on a single typographical error, and contradicts the context of the reference as a whole. Since central computer 26 is only illustrated in Figure 1B, it appears that the passage in question in Calloway should read "...a central computer 26 (FIG. 1B)..." in order to be consistent with the subject matter of the patent. It is further noted that the entire paragraph containing this passage is directed to Figure 1B, further proving that the passage is a typographical error and is inconsistent with the context of the reference.

Calloway discloses that "FIG. 1A shows a functional block diagram of an electronic maintenance support (EMS) work station," and that "FIG. 1B shows a hardware block diagram for the EMS work station." See column 2, lines 40-46. In other words, both Figure 1A and 1B illustrate the same EMS work station 10. This is evidenced by the fact that the text screen 12, video/graphics screen 14, video/graphics interface hardware 22 and video disk from Figure 1B are also illustrated in Figure 1A. Because Figure 1A is a functional block diagram and Figure 1B is a structural hardware block diagram, not all elements from Figure 1B will be present in Figure 1A, and vice versa. Therefore, Figure 1A does not illustrate a central computer 26.

In addition to EMS workstation 10, Figure 1B illustrates the central computer 26. Based on the disclosure of Calloway, it appears that the elements within the dotted line (text screen 12, video/graphics screen 14, video/graphics interface hardware 22, audio, local database, work station computer 24, video disk 15 and modem) are hardware components of the EMS workstation 10. Work station computer 24 "interfaces with" the text screen 12, video/graphics

screen 14, and video display interface hardware 22. See column 3, lines 55-68. It also appears that the line between the modem and the central computer 26 represents a communication network.

It is further noted that the description of the function of the invention of Calloway is inconsistent with the Examiner's position. Part files 37, which the Examiner regards as a database, are a component part of part procurement subsystem 28, as illustrated in Figure 1A. According to the specification of Calloway, "a parts procurement subsystem 28 can be employed to write an order for the part in the user's work station computer 24 and transmit it to the central computer 26." Please see column 4, lines 16-19. Thus, part files 37 are located in the EMS workstation 10, not in the central computer 26.

For at least the reasons discussed above, Appellant argues that the Examiner's assertion that the central computer 26 contains part files 37 is incorrect. Appellant argues that the drawings and disclosure of Calloway taken in the context of the entire reference clarify that the parts files 37 (local database) are located in the EMS workstation 10, not in the central computer 26.

It is well settled that in order to anticipate a claim under 35 U.S.C. §102(b), a reference must disclose each and every limitation of the claim. However, a reference must be interpreted as a whole.

It is impermissible...to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art. *In re Wesslau*, 353 F.2d 238, 241 (CCPA 1965).

As noted above, it is argued that the Examiner's position is reliant on a typographical error in the Calloway reference. As discussed in *In re Harry Louis Yale*, an obvious error in the art "cannot be said to describe or suggest" the erroneous teaching to those in the art. 58 C.C.P.A. 764, 768 (CCPA 1970). The court held that "[s]ince it is an obvious error, it cannot be said that one of ordinary skill in the art would do anything more than mentally disregard CF(3)CF(2)CHClBr as a misprint or mentally substitute CF(3)CHClBr in its place." *Id.* Likewise, one of ordinary skill in the art would do nothing more than mentally disregard "...a central computer 26 (FIG. 1A)..." as a misprint or mentally substitute "...a central computer 26 (FIG. 1B)..." in its place.

The entire disclosure of Calloway makes it clear that the parts files 37 are not disposed in the central computer 26. Thus, Calloway does not disclose "a terminal connected to the part database via a connection network for bidirectional communication with the part database," as required by claim 1.

(VIII) CONCLUSION

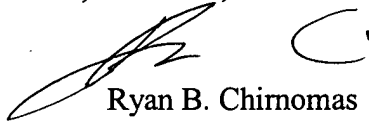
For at least the foregoing reasons, the Examiner has failed to show that Calloway anticipates the claims. The Honorable Board is respectfully requested to reverse the rejection of the Examiner.

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If this paper is not timely filed, Appellant hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 50-2866, along with any other additional fees that may be required with respect to this paper.

Respectfully submitted,

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CLAIMS APPENDIX

Claim 1. A part retrieving system for production machines utilizing a network, the system being characterized in that the system comprises:

a part database and

a terminal connected to the part database via a communication network for bidirectional communications with the part database, said part database has information on parts accumulated therein, the parts constituting each of production machines having different specifications, and said terminal comprises:

part information requesting means for requesting said part database to transmit the part information,

storage means for storing the part information transmitted in response to said transmission request,

retrieval means for retrieving parts from the stored part information depending on retrieval conditions, and

ordering means for creating order information depending on the result of the retrieval by said retrieval means.

Claim 2 A part retrieving system for production machines utilizing a network according to Claim 1, the system being characterized in that said part information requesting means transmits

information including identification information on the individual production machines, said database extracts, in response to said transmission request, information on parts concerning a production machine specified by said identification information and transmits the information as machine-specific part information comprising a group of pieces of part information on a specific production machine.

Claim 3. A part retrieving system for production machines utilizing a network according to Claim 2, the system being characterized in that said transmission requesting means of said terminal causes display means provided in said terminal to display a plurality of pieces of identification information on said production machines as a machine selection menu so that a production machine can be selected from the displayed selection menu.

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EVIDENCE APPENDIX

None Presented.

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RELATED PROCEEDINGS APPENDIX

No Related Proceedings.